

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING  
May 9, 2017

A public hearing of the Zoning Board of Adjustment was held on Tuesday, May 9, 2017 at 6:30 PM in the Auditorium, 229 Main Street, at City Hall.

Members in attendance were:

Jack Currier, Chair  
JP Boucher, Vice Chair  
Mariellen MacKay, Clerk  
Rob Shaw  
Steve Lionel

Carter Falk, AICP, Deputy Planning Manager/Zoning

Mr. Currier explained the Board's procedures, including the points of law required for applicants to address relative to variances and special exceptions. Mr. Currier explained how testimony will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws. Mr. Currier also explained procedures involving the timing light.

- 1. Estate of Estelle B. Berthiaume (Owner) Lefavor Folio, LLC (Applicant) 266 Broad Street (Sheet 138 Lot 460) requesting the following variances: 1) minimum lot frontage, 75 feet required, 50 feet proposed; and, 2) minimum lot width, 90 feet required, 50 feet proposed - to subdivide one lot into three lots. R9 Zone, Ward 1. [Approved at 3-28-17 ZBA meeting, but advertisement language was incorrect]**

Voting on this case:

Jack Currier  
JP Boucher  
Mariellen MacKay  
Rob Shaw  
Steve Lionel

Attorney Gerald Prunier, Prunier & Prolman, P.A., 20 Trafalgar Square, Nashua, NH. Atty. Prunier said that they are back due to a mistake in the advertisement. He said that the numbers for the lot frontage and lot width were from the RA zone, not the R9 zone. He said that everything else from the plan stays the same, and wanted to incorporate the minutes from the previous hearing of March 28<sup>th</sup>.

Atty. Prunier said that everything stays the same, the only difference is the numbers on the advertising for the frontage and the width.

Mr. Currier said that it was originally advertised with the RA zone lot frontage and lot width numbers.

Mr. Shaw asked about the special conditions, if they can still be met.

Atty. Prunier said they'll be met.

**SPEAKING IN FAVOR:**

No one.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

Mr. Currier read a letter into the record, received May 9<sup>th</sup>, from Mr. Neil Guild. He said that the concern was about additional traffic on Broad Street.

**SPEAKING IN FAVOR - REBUTTAL:**

Atty. Prunier agreed about the traffic on Broad Street at certain times. He said that there will only be one more driveway added onto Broad Street. He said that the added traffic will be minimal.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:**

Mr. Boucher said it doesn't change the feelings he had about the request, he said it's a good plan, and the property is being developed in the best manner it can be, and the extra traffic is minimal.

Mr. Lionel said he doesn't see anything that would change his opinion from the last time it was heard. He said that some conditions were put in for screening, and there was some discussion about drainage, and said that he's still in favor of this.

Mr. Shaw said he's still in favor of it, and he said that the last meeting, density was discussed, and it's not more than what

is allowed here. He said it is a good, reasonable plan, and everyone agrees that Broad Street has a lot of traffic, and the two new houses will not be a significant change.

Mrs. MacKay said she concurs, and doesn't have anything else to offer.

Mr. Currier said he's in agreement, and agrees that there is a lot of traffic here, and it's slower at rush hours, and the lot is rather large and the use of the land is reasonable with two extra single family homes. He said the Board is at a consensus that the properly advertised case is fine, and the Board is also fine with the same special condition.

**MOTION** by Mr. Shaw to approve the variance application on behalf of the owner. He said that the variances are needed to enable the applicant's proposed use of the property, which is to divide a lot that is sufficient to support three R9 sized lots, and due to the shape of the lot and the bordering of the property to Broad Street and New Hampshire Avenue, there is no other reasonable or practical means in doing that without requirement of these two variances.

Mr. Shaw said that the proposed use would be within the spirit and intent of the ordinance regarding the usage of the property, there is no testimony one way or another regarding any negative effects on property values of the surrounding properties.

Mr. Shaw said it is not contrary to the public interest, there was discussion and concern expressed about the traffic conditions on Broad Street and the addition of two additional homes, and traffic will either feed directly with the driveway or through New Hampshire Avenue, and while acknowledging that this is the general concern about the traffic, the additional burden on traffic from this development will not be significant, and that substantial justice is served.

Mr. Shaw said that as previously requested, the Board is putting on two special conditions on this, for screening fences on the full easterly side of Lot 460-1 and on the westerly property side abutting 4 New Hampshire Avenue.

**SECONDED** by Mr. Lionel.

Mr. Shaw said that previously, he expressed the desire, or

preference based upon the abutting property on 4 New Hampshire Avenue, that the home that's being placed with the driveway on New Hampshire Avenue be shifted as much as possible to the center of the lot, or at least away from that left edge, just to provide some additional barrier, even with the screen fence provided.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**2. Paul A. & Gerianne K. Patti (Owners) 3 Monica Drive (Sheet B Lot 804) requesting special exception to work within the 75 foot prime wetland buffer of Salmon Brook to reconstruct a failing screen porch and deck, add connecting walkway with stairs for emergency egress, and rebuild a rotting planter at end of driveway. R18 Zone, Ward 8.**

Voting on this case:

Jack Currier  
JP Boucher  
Mariellen MacKay  
Rob Shaw  
Steve Lionel

Paul Patti, 3 Monica Drive, Nashua, NH. Mr. Patti said that they want to replace a rotting deck and screen porch, of which the foundation is a retaining wall is about to tumble down into Salmon Brook, as it's made from railroad ties. He said it was recommended favorably by the Conservation Commission two weeks ago, and essentially needs to be done so that the porch will not fall off, and maybe take the house with it. He said it will be replacement-in-kind except for the addition of an egress walkway between the deck and the porch, as currently, if there is a fire or some other safety issue in the house, people wouldn't be able to get off the deck and exit. He said that the rotting planter is at the end of the driveway, and really needs to be replaced as well.

Mr. Currier said that he would like to incorporate the minutes of the Conservation Commission meeting into the record, with their favorable recommendation, letter dated April 15, with a total of seven stipulations.

Mr. Currier read over the nine special wetland conditions, and Mr. Patti said that all of them will be adhered to.

**SPEAKING IN FAVOR:**

Mr. Currier read a letter of support from Thomas Burke, at 15 Monica Drive.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No one.

**MOTION** by Mr. Boucher to approve the special exception on behalf of the owner as advertised. Mr. Boucher said that the use is listed in the Table of Uses, Section 190-112.

Mr. Boucher said that the use will not create undue traffic congestion, or unduly impair pedestrian safety. He said it will not overload public water, drainage or sewer or other municipal systems. He said that all of the special regulations will be met, and that the use will not impair the integrity or be out of character with the neighborhood, or be detrimental to the health, morals, or welfare of the residents.

Mr. Boucher said that the special condition is that the Conservation Commission approved this case with seven stipulations, dated April 7, 2017.

**SECONDED** by Mr. Shaw.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**3. John K. Leatherman & Luci R. Rodrigues (Owners) 6 Gagnon Circle (Sheet C Lot 774) requesting variance to encroach 4 feet into the 20 foot required front yard setback to construct a 7'x8' front entrance vestibule. R9 Zone, Ward 9.**

Voting on this case:

Jack Currier  
JP Boucher  
Mariellen MacKay  
Rob Shaw  
Steve Lionel

John Leatherman, 6 Gagnon Circle, Nashua, NH. Mr. Leatherman said that the house was built in 1974 as a one-story ranch, and

a second story was built in 1992, and presently, the front door is in a dilapidated state, and as constructed, the stairs going upstairs, the door barely clears the stairs. He said that the request will allow for a grander entranceway, so the addition would be a 7'x8' addition to the front of the house, for the first and second story, and will also allow for some closet space on the second floor.

Mr. Leatherman said that the request will encroach 4 feet into the 20 foot setback, there is 23½ feet to the lot line, and it will be built 7 feet from that. He said that with the addition, the stairs would be 22 feet from the roadway.

Mr. Lionel said that this would look very different from the surrounding houses, and didn't expect it to be two stories tall.

Mr. Falk said that the setbacks go from the ground up to the sky, and it was advertised correctly. He said whether it's labeled as a vestibule or front entryway, or foyer, they're just different terminology.

Mr. Currier said that the house to the right seems to be closer to the road. He stated that it looks like with the proposal, it wouldn't be any closer to the road than the neighbor on the right.

Mr. Leatherman said he observed the same thing.

**SPEAKING IN FAVOR:**

No one.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No one.

Mr. Lionel said it will look very different from the rest of the neighborhood, it's essentially a bump-out, and agreed that there may be other houses that would have similar setbacks, and said he wasn't sure how the character of the neighborhood fits in with the decision.

Mr. Falk said that the Zoning Board is not an architectural review board, and the character of the neighborhood is a much more involved, broader topic. He said that for example, a

street with twenty single family homes, and one of them wants to put in a two-family, that may be an example of a use on the street where it would not be in the character of the street, or an area where someone wants a massive sign where other signs on the street are small. He said that the street has six houses, they're all single family homes on decent sized lots, on a cul-de-sac, it's a single family neighborhood, and that's what the character is. He said that all the houses don't have to look alike, it doesn't have to be all uniform, and if what the homeowner wants to do would make their usable space inside the home better, it's a very small incursion into the setback, he said he wouldn't see it as out of the character of the neighborhood.

Mr. Shaw said that 3 and 5 Gagnon might already be closer than 6 Gagnon is, and said that this is a street where all the homes are relatively close to the street and front setbacks, so in one sense, the Board is not looking at taking this one house that's really pushed up against the setback and have it further encroach, when everything else is set back. He said that it looks as if the front entrance to the house is placed right at the very minimum setback to that arc of the cul-de-sac circle, such that if the house was shifted one way or another, there would be that much less encroachment. He said he's in support of the application.

Mr. Boucher said that usually, houses on cul-de-sacs can present a challenge. He said that the request is not uncommon, and this application seems to be not as challenging as some of the others the Board sees, and said he's in support.

Mrs. MacKay agreed, and the shape of the lot is odd, yet is seems like a logical request, and it's not encroaching on either side, so neighbors shouldn't be affected, and the extra closet space will be very useful.

Mr. Currier said he was envisioning a one-story vestibule, and agrees that the two-story vestibule is a different look. He said that the lot has a little topography going uphill, and that's why it was pushed up to the front because of driveway needs, so that does speak to a special condition of the lot. He said he's supportive of it as it's proposed.

**MOTION** by Mr. Shaw to approve the variance application on behalf of the owner. He said that the home, while on a relatively

large lot, is placed relatively close to the front of the property, and it is on a cul-de-sac on the arc of the circle in the cul-de-sac, and the existing entranceway is already pretty much at the smallest distance from that arc. He said that basically to replace the front entrance and add some additional structure here is nearly impossible to add anything without some encroachment into the setback. He said that at least from the pavement, the setback will be greater than twenty feet, and while technically we judge this to the property line, the Board agrees that there is very little likelihood that the pavement will be brought all the way to the edge of the right-of-way.

Mr. Shaw said that the proposed use would be within the spirit and intent of the ordinance in terms of allowing the property owner to have a modest addition and enhancement to the home as proposed.

Mr. Shaw said that there is no testimony one way or another regarding any negative effects on property values.

Mr. Shaw said it is not contrary to the public interest, and substantial justice would be served. He noted that this property is similarly placed, except to the front of the property, much like some of the surrounding properties on this street, especially #'s 3 and 5 Gagnon Circle.

**SECONDED** by Mr. Boucher.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**4. Roger & Megan Rhynehart (Owners) 4-6 Laton Street (Sheet 47 Lot 107) requesting variance to exceed maximum driveway width, 24 feet permitted, 22 feet existing on left side, an additional 15 foot wide driveway requested on right side for a total width of 37 feet. RB Zone, Ward 3.**

Voting on this case:

Jack Currier  
JP Boucher  
Mariellen MacKay  
Rob Shaw  
Steve Lionel

Roger Rhynehart, 4-6 Laton Street, Nashua, NH. Mr. Rhynehart



said that they are requesting to exceed the maximum driveway width, to add a driveway on the right side of the property. He said that it is a two-family property, and the addition would serve purposes on many fronts, first off, it would increase the safety of the surrounding area, as the street is narrow, and parking is an issue, and being a two-family, the additional parking will take cars off the road and increase safety. He said that the aesthetics will be increase, and it should help surrounding property values as well.

Mr. Lionel said that the owner will have to work with the City on the additional curb-cut.

Mr. Rhynehart agreed.

**SPEAKING IN FAVOR:**

Mr. Currier read a letter in favor from Lucas Lund, at 8 Laton Street, and he is supportive of the driveway, in that it'll match the driveways on the other side of the street.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

Celeste Migneault, 7 Laton Street, Nashua, NH. Mrs. Migneault said that her family has been at this residence for fifty years. She said that her brother wrote a letter of rebuttal, and included it, and read it into the record. She said that with the additional curb-cut, there will not be room to back out, and there is a telephone pole there. She said that when there is a car parked on the street, there is eight feet or less for a car to get by. She said she didn't see the purpose of the extra driveway, as there is parking for 5-6 cars in the existing driveway, and the extra driveway will take away green space will make it unappealing, it will be all asphalt.

Mr. Lionel stated that the request is not to extend the existing driveway two feet, it is 22 feet wide, and it will stay the same, the proposal is to add a second 15' wide driveway on the right side of the property.

Mr. Currier asked if there is parking on the south side of Laton Street and not on the other side.

Mrs. Migneault said it's just on the south side of the street, and not overnight.

Mrs. Migneault asked how many parking spaces they need.

Mr. Shaw said that the application says it's for two additional cars.

Mr. Falk said that the Code requires two per unit.

Mrs. Migneault said that they already have that.

**SPEAKING IN FAVOR - REBUTTAL:**

Mr. Rhynehart said that he doesn't feel that there will be a detriment to the egress on the property, and didn't think that the pole would be an issue. He said that there is no parking allowed on the left hand side of the road, and they've been through an extensive renovation on the property, and have put a lot of resources in the property to bring up the property values, which will include a lot of work around the grounds. He said the room on the left, it's not as much space as was said, and it goes back at an angle. He said that the proposed driveway will be 15 feet wide, and will fit two cars.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:**

Mrs. Migneault asked how many cars are allowed per unit.

Mr. Currier said that the existing driveway on the left reasonably parks two cars, and it's challenging to park four cars there. He said that the proposal is a comfortable two cars on the left, as nothing changes, and two cars on the right.

Mr. Falk reiterated that two parking spaces are required per unit.

Mrs. MacKay said that the house on the corner always has numerous cars parked there. She said that right now, it looks like dirt is there, and people are parking on it now. She said that they need two cars on each side to meet the Code. She said that this street is extremely small, and you hold your breath if cars are parked on one side when you drive there. She said that the request makes logical common sense to put the new driveway in. She said it makes more sense to have the driveway than to not have it, so she is in support.

Mr. Currier said he likes green space more than asphalt, but the trade-off is that four cars here on the left side driveway is a tight driveway, and that two on the left and two on the right is a nicely workable design. He said that the trade-off is that there is less green space on the lot. He said he supports the application, because on this tight street, it's a reasonable design to make it work better for the long-existing house. He said he'd struggle with not supporting this request.

Mr. Shaw said it does come down to a trade-off, and it will increase safety with the benefit of less cars parked on the street. He said that the net benefit overall is that it will be safer on the street, and this is a good solution.

Mr. Boucher said it is a tight street, somewhat of a challenge. He said a fifteen foot wide driveway would give a better chance of getting in and out without doing a three-point turn. He said it's a balance issue, and in this case would support the application as it stands.

Mr. Lionel agreed that by adding this driveway would most likely cause cars to be pulled off the street into the driveway, as there really isn't enough space for reasonable parking, you could fit four cars in that space, but cars would have to be shuffled, so, what's likely happening is that at least one of the tenants is parking on the street a lot of the time. He said that a 15 foot opening will give some room for starting the turn.

**MOTION** by Mr. Lionel to approve the variance application on behalf of the owner. He said that the variance is needed to enable the applicant's proposed use of the property, it's a two-family house, and the requirement is two parking spaces per unit, and given the special conditions of the property, the benefit sought by the applicant cannot be achieved by some other reasonable method.

Mr. Lionel said it's within the spirit and intent of the ordinance, there is testimony from an adjoining neighbor that it will improve the look and value of surrounding parcels. He said

Mr. Lionel said it is not contrary to the public interest, and substantial justice would be served.

**SECONDED** by Mr. Shaw.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**5. Rubin Nashua, LLC d/b/a Bernie & Phyl's Furniture (Owner) Viewpoint Sign & Awning (Applicant) 243 Daniel Webster Highway (Sheet A Lot 128) requesting variance to encroach 11 feet into the 25 foot setback to an intersection (off Spit Brook Road) to replace an existing ground sign with a new ground sign. GB Zone, Ward 7.**

Voting on this case:

Jack Currier  
JP Boucher  
Mariellen MacKay  
Rob Shaw  
Steve Lionel

Scott Spaulding, Viewpoint Sign & Awning, Northborough, MA. Mr. Spaulding said that they are proposing to replace an existing ground sign that has been there before Bernie & Phyl's. He said it's been a long time desire to orient that sign more towards DW Highway. He said that they meet all the dimensional criteria for a corner/intersection sign, except for the distance to the intersection of the right-of-way, which needs to be 25 feet. He said that it's not possible, as land has been taken for roadway widening, and the existing sign is most likely nonconforming.

Mr. Spaulding said they don't believe that there will be any harm to the traffic, flow of cars.

Mr. Currier asked if the proposal is to rotate the sign 90 degrees.

Mr. Spaulding said yes, so it's facing DW Highway, and you can see the sign traveling north or south.

Mr. Currier asked if it would be fair to say the sign is basically parallel to Daniel Webster Highway, and perpendicular to Spit Brook Road.

Mr. Spaulding said yes, and the intent is to rotate it 90 degrees.

Mr. Currier asked if the proposed new sign is bigger than the old one.

Mr. Spaulding said that the overall sign is 15 square feet bigger than the existing sign.

Mr. Currier said that his concern is the solid-faced skirt, versus the pole, at the bottom, and the orientation that the sign is now, that could block views for walkers along the sidewalk. He said that the solid base, being closer to the intersection, could block views.

Mr. Spaulding said that he didn't believe the decorative skirt would cause any visual blockage that would impair pedestrian safety in any way. He said he believes it's still set back enough. He said he didn't really understand the real concern.

Mr. Currier said if the sign had decorative posts, instead of the skirt, you could see through it, but with the solid skirt, you can't. He said it would have a better view looking through it. He said that with the decorative skirt closer to the intersection, he is concerned with blocking the view.

Mr. Spaulding said that the skirt isn't mandatory, and if it's a sticking point, they can look at a pole or two poles. He said that they thought that the skirted bottom makes a statement, it's decorative and nice, not the typical pole sign. He said if it's considered a public safety issue, they can revise it.

Mr. Shaw said he has concerns about the physical barrier, when at this intersection, there is so much going on, there is traffic coming down the hill, traffic taking a left turn from Daniel Webster Highway onto Spit Brook Road, and the number of maneuvers that go on at this intersection already, and anything that is now creating additional visual barrier into that setback part of the intersection, what's meant to be unencumbered from all those visual sight lines, that is what the concern is, whether it's the decorative skirt, or the pole, or where the sign actually is located, and how much of a wall it presents in the mix of this intersection, and it can affect pedestrian safety, or bicyclists.

Mr. Spaulding said that he didn't see how the sign could affect vehicle traffic, but understands the issue about the skirt. He said he didn't see how the sign could block traffic. He said he

can understand the concerns about the skirt.

Mr. Currier said that especially around the holidays, traffic in this area is very heavy, and there are two right hand lanes that can turn right on a red light. He said that you're looking to the right to see what lane is open, and with cars jockeying for position, the skirt could be a big barrier there.

Mr. Spaulding said that they can consult with the owner to look at an alternative option for the skirt.

Mrs. MacKay said that traffic here is very busy, and it makes logical sense to consider an alternative besides the skirt.

Mr. Spaulding said that they can certainly look at re-designing the sign.

Mr. Boucher said that he's really looking at the safety of the intersection. He said that he's aware that some properties had land taken for the roadway widening, so perhaps the sign was originally conforming.

Mr. Lionel said that he is in agreement about the skirt, and traffic and safety considerations at this intersection.

Mr. Currier asked if they would consider having the Board table the case to consider the testimony from the Board about the skirt. He said that they'd have to resubmit a revised plan and come back before the Board.

Mr. Spaulding agreed, and they'll look into different pole scenarios.

**SPEAKING IN FAVOR:**

No one.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No one.

**MOTION** by Mr. Currier to table the request to a date certain, May 23, 2017, so that the applicant can re-design the bottom of the sign relative to the skirt, and to consider the sight line

for this very busy corner.

**SECONDED** by Mrs. MacKay

**MOTION CARRIED UNANIMOUSLY 5-0.**

**6. Joan Waugh-Crotzer & David Crotzer (Owners) 39 Gilman Street (Sheet 94 Lot 96) requesting the following variances: 1) to exceed maximum accessory use area, 40% permitted, 62% proposed, and 2) to exceed maximum accessory structure height within 10 feet of property line, up to 14½ feet proposed - to construct a 16'x24' shed. RB Zone, Ward 6.**

Voting on this case:

Jack Currier  
JP Boucher  
Mariellen MacKay  
Rob Shaw  
Steve Lionel

David Crotzer, 39 Gilman Street, Nashua, NH. Mr. Crotzer stated that they recently purchased the property, and they've been consolidating some of the things they had in storage, and the house was built in 1915, and has small closets. He said it would be best to construct the shed, and need the variances to exceed the maximum accessory use area, and for the height.

Brief discussion of the nature of the variances ensued.

Mr. Falk described the portion of the shed that would exceed the maximum height within ten feet of a property line.

Board members all expressed their support for the request.

**SPEAKING IN FAVOR:**

No one.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No one.

**MOTION** by Mr. Lionel to approve the variance application on behalf of the owner. He said that the variance is needed to

enable the applicant's proposed use of the property, which is to get some useful storage at the property, and given the small size of the house, there is no other reasonable method.

Mr. Lionel said it's within the spirit and intent of the ordinance, it is similar to many other surrounding properties, so it should not impact the property values of surrounding parcels.

Mr. Lionel said it is not contrary to the public interest, and substantial justice would be served.

**SECONDED** by Mr. Shaw.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**7. Windham Realty, LLC (Owner) The Sign Center (Applicant) 295 Main Street (Sheet 98 Lot 3) requesting the following variances: 1) to exceed maximum number of wall signs permitted, 2 existing, 3 allowed - 2 additional wall signs proposed for a total of 4; 2) to exceed maximum height for wall sign, 20 feet permitted, 22 feet proposed for sign on south elevation; and 3) to exceed maximum wall sign area for Belmont Street elevation, 65 square feet allowed, 39.5 square feet existing, one additional 39.5 square foot sign requested for a total of 79 square feet. D-3/MU Zone, Ward 4.**

Voting on this case:

Jack Currier  
JP Boucher  
Mariellen MacKay  
Rob Shaw  
Steve Lionel

Jay Kahn, The Sign Center, Haverhill MA. Mr. Kahn said that the property is in the D3/MU Zone, and described the location on the map. He said that a bank used to be here, it was removed, and now there is a newly reconstructed bank at the site. He said that all the work was coordinated with the City. He said that the previous building had four signs on it, and the building was in need of updating, so it went from a flat roofed utilitarian building to a two-story New England styled gabled Colonial building. He described the signs that were on the building before it was removed.



Mr. Kahn said that there are two signs on the building now, permitted by right. He said that on the south side of the building, driving up Main Street, the proposed sign is centered in the gable, and the height is 22 feet above grade, and the Code limit is 20, but it will match the architecture of the building better. He said on the back of the building, there is an enormous brick wall back there, opposite Main Street where the parking lot is. He said it is architectural to add some interest to that wall, and it would be the fourth sign, and it is the one driving the square footage. He said that the building is 52 lineal feet, which allows 65 square feet of area. He said the sign is designed to properly fit on this wall.

Mr. Kahn said that the objectives for this sign was to have it be similar to their other brand, and meet the City's needs for the new construction, it is a nice looking new building. He said it won't be contrary to the public interest. He said that the planning process was a collaborative process with the City, and the sign will be in the spirit and intent of the Ordinance, and it will not diminish anyone's property values.

**SPEAKING IN FAVOR:**

No one.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No one.

**MOTION** by Mr. Currier to approve the variance application on behalf of the applicant, with all requests considered collectively. He said that the variance is needed to enable the applicant's proposed use of the property, which is a reconstructed bank, and is in concert with the Downtown Master Plan.

Mr. Currier said it's within the spirit and intent of the ordinance to allow the sign variances,

Mr. Currier said it should not impact the property values of surrounding parcels.

Mr. Currier said it is not contrary to the public interest, and substantial justice would be served.

**SECONDED** by Mrs. MacKay.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**MISCELLANEOUS:**

**REHEARING REQUESTS:**

**20-22 Central Street:**

Mr. Currier asked if there was any procedural error, including improper notice, denying someone the right to be heard, etc.

All Board members replied that there wasn't.

Mr. Currier asked if it was an illegal decision, in other words, did the Board fail to completely address each of the points of law required for the special exception and/or variance.

All the Board members replied that it was not, all the points of law were addressed.

Mr. Currier asked if the request for rehearing contain any new information not presented or available to the Board at the original Public Hearing.

All the Board members said that there was nothing new or relevant.

Mr. Currier asked if there is anything which would/could cause the Board to make a different decision.

All the Board members said that there was no information that was submitted that would or could cause them to come up with a different decision. Mr. Currier said that the rehearing request speaks more about the side of the property off Central Street, and the paving was done off of Vine Street.

**MOTION** by Mr. Currier to deny the rehearing request, as the Board has answered no to all the four rehearing questions.

**SECONDED** by Mr. Boucher.

**MOTION CARRIED UNANIMOUSLY 4-0-1** (Mr. Lionel abstaining).

**MINUTES:**

**4-11-17:**

**MOTION** by Mr. Currier to approve the minutes as presented, waive the reading, and place the minutes in the file.

**SECONDED** by Mr. Boucher.

**MOTION CARRIED UNANIMOUSLY 3-0** (Mr. Shaw, Mr. Lionel abstained).

**4-25-17:**

**MOTION** by Mr. Currier to approve the minutes as presented, waive the reading, and place the minutes in the file.

**SECONDED** by Mr. Lionel.

**MOTION CARRIED UNANIMOUSLY 4-0** (Mr. Shaw abstained).

**122 Manchester Street**

Mr. Currier said that this case was tabled to the May 23, 2017 meeting, as the applicant requested this so he can be at the meeting and with the expectation that there would be five sitting members.

Mr. Falk said it's a public meeting, not a public hearing, so there will not be any testimony from anyone. He said that there has to be some finality to this case.

Mr. Lionel said that he won't be here for the next meeting, and wasn't on the Board when the Board made their initial decision, but did sit in the audience.

Mr. Boucher and Mrs. MacKay said that we have to move on with this case.

Mr. Lionel said that the recent training he attended, he spoke with two attorneys about a full Board, and both said something different.

Mr. Falk said that if there are three people here, the Board needs to proceed.

Mr. Shaw said that we need to operate under the Nashua ordinance, and this was pushed out at the request of the applicant, but it's also important for the Board to finish its business, especially since it doesn't require public participation. He said that the video and the outcome will be available, and actually it could have been done tonight. He said we're trying to accommodate too many things here.

Mr. Falk said that the applicant is going to call or email asking about who will be here for the next meeting, to confirm the meeting. He said as of right now, it's pretty obvious who is going to be at the meeting.

Mr. Boucher said that all you can say is that Mr. Shaw and Mr. Lionel won't be attending at this time.

Mr. Falk said that the Board's decision is also pending for their Planning Board decision as well, which has also been tabled a couple times as well. He said that the neighbors and others are getting anxious for this to move forward, one way or another.

Mr. Boucher said that there will be a quorum, and we'll proceed with the rehearing.

Mr. Currier said that the Board should take it off the table.

Mr. Boucher said that the Board is the driving force at this point.

Mr. Falk said he thinks it should go forward.

Mr. Currier said it would have been tonight, but it was tabled to a date certain, the next meeting, at the applicant's request, because they weren't going to be in the audience. He said that they don't need to be in the audience, because it's a public meeting.

Mr. Shaw said that their desire that the five of us that originally voted on the case were here, and by requesting us to postpone it to a date that they could attend in person only further complicated the Boards ability to do that, when it really could have been achieved tonight. He said that Ms. Vitale could have been here tonight, and all five of us could

have been here participating.

Mr. Falk said that there has to be some finality to these decisions, and that is why Alderman Teeboom at the time put forward that action that whether there is five members or not, if there is three members, it has to go.

**REGIONAL IMPACT:**

The Board determined that none of the cases at the next agenda will have Regional Impact.

**ADJOURNMENT:**

Mr. Currier called the meeting closed at 9:35 p.m.

Submitted by: Mrs. MacKay, Clerk.

CF - Taped Hearing